

C. Remarks

The claims are 1-9, 12-15 and 17-21, with claims 1, 12, 13 and 21 being independent. Claim 10 has been cancelled without prejudice or disclaimer. Claims 1 and 12 have been amended to set forth that the process and product of the present invention include a hydrophobic barrier composition, while the non-stick coating is optional. Similarly claim 13 has been amended to make it clear that a hydrophobic barrier composition is present, while a non-stick coating may or may not be present. All independent claims have been amended to include the subject matter of cancelled claim 10. New claim 21 has been added and is directed to a preferred embodiment of the invention where the edible lightweight cores are popcorn and where the temperature-sensitive inclusions are candy-shelled chocolate pieces. Applicant respectfully submits that the claim amendments are fully supported by the application as originally filed and that no new matter has been added. Reconsideration of the present claims is respectfully requested.

Claims 1-10, 12-15 and 17-20 stand rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite. In view of Applicant's amendment of claims 1 and 12 to make it clear that a hydrophobic barrier composition is present, while a non-stick coating is optionally present, Applicant respectfully submits that the rejection is now moot and should be withdrawn.

Claims 1-10, 12-15 and 17-20 stand rejected under 35 U.S.C. §103(a) as being allegedly obvious over Hemker (U.S. Patent No. 4,849,233). Applicant respectfully traverses this rejection as Hemker fails to disclose or suggest several key features of the present invention. (Applicant notes that the Examiner indicated that claims 7, 9, 10, 18 and 20 were directed to allowable subject matter, though those claims were included in the

§103 rejection over Hemker. Applicant assumes that the inclusion of these claims in the §103 rejection was erroneous, but will address those claims in the response below nonetheless. Applicant also calls to the Examiner's attention that all independent claims include the subject matter of now cancelled claim 10; accordingly, all claims should be in condition for allowance.)

The Examiner points to Example 1 of Hemker for the alleged teaching of the present claim limitations; however, Applicant respectfully submits that Hemker is deficient in a number of respects. For example, the Examiner notes column 13, lines 9-11, and column 13, lines 13-17, of Hemker for the alleged teaching of preparing popcorn from corn kernels in the presence of coconut oil, dehydrating the popcorn in the process, and posits that this disclosure is seen to be steps (d1) and (d2) of the present claims. Simply put, dehydrating a corn kernel in the process of popping it with coconut oil is not the same as providing a popped corn kernel with a hydrophobic barrier composition and drying the barrier composition. The hydrophobic barrier composition of the present invention is specifically intended to decrease the transfer of moisture from the binder to the popcorn (paragraph [0040] of the present published application). One skilled in the art would recognize that oil-popped popcorn is readily subject to moisture pick-up and, accordingly, that the oil used for popping does not act as a hydrophobic barrier composition. Since Hemker does not teach treating an edible lightweight core with a hydrophobic barrier composition, it follows that it can not teach a step of drying the barrier composition.

The Examiner then points to column 13, lines 28-31, for the alleged teaching of steps (a) and (b) of the present invention. The Examiner remarks that the marshmallows of Hemker are seen to function as both binder and temperature sensitive

inclusion. Applicant respectfully submits that this is simply not possible. According to the present invention, “inclusions” are “discrete particles” which are temperature-sensitive and are stuck to the edible lightweight cores as discrete particles. In Hemker, the marshmallow is heated in order to become molten. Hemker actually entails doing exactly what the present invention seeks to avoid, i.e., melting or in any other way compromising the structural integrity of temperature-sensitive inclusions which are to be adhered to edible lightweight cores. Mixing and heating in Hemker is not discontinued until the materials (butter, marshmallow and coloring) are “more fluid and uniformly blended together” to make a “molten binder admixture”. In other words, discrete particles of marshmallow being stuck to popped corn kernels do not exist in Hemker since the heat used therein melts all the marshmallow. Even if one desired to adhere intact marshmallows as inclusions to the popped corn kernels coated with molten marshmallow of Hemker (which Applicant does not concede is even suggested), the high temperature of the molten marshmallow would simply melt these marshmallows as well. In this way, there is no teaching or suggestion by Hemker of the presently claimed “edible lightweight cores having temperature-sensitive inclusions adhered thereto”.

It is clear from the above that Hemker fails to disclose or suggest several key features of the present invention, namely the provision of a hydrophobic barrier composition and the adherence of intact, temperature-sensitive inclusions to edible lightweight cores. What is more, all claims now include the limitation of cancelled claim 10, i.e., that steps (a), (b) and (c) are conducted at a temperature of less than 50°C; Hemker does not disclose or suggest this limitation. Instead Hemker employs a coating composition with a temperature of from about 50-95°C (column 3, lines 30-31). For at least the above-noted reasons, Applicant submits that the present invention is not obvious in view of Hemker and respectfully requests withdrawal of the §103 rejection premised

upon Hemker.

In view of the foregoing amendments and remarks, favorable reconsideration and passage to issue is respectfully requested. Should the Examiner believe that issues remain outstanding, the Examiner is respectfully requested to contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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